

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Cause No. 1:16-cr-0142-RLY-TAB-1
	)	
MICHAEL T. MOREFIELD,	)	
	)	
Defendant.	)	

Magistrate Judge's Report and Recommendation

This matter is before the undersigned according to the Order entered by the Honorable Richard L. Young, directing the duty magistrate judge to conduct a hearing on the Petition for Warrant or Summons for Offender Under Supervision ("Petition") filed on August 31, 2018, and to submit proposed Findings of Facts and Recommendations for disposition under 18 U.S.C. §§ 3401(i) and 3583(e). Proceedings were held on October 24, 2018, in accordance with Rule 32.1 of the *Federal Rules of Criminal Procedure*.<sup>1</sup>

On October 24, 2018, defendant Michael T. Morefield appeared in person with his appointed counsel, Gwendolyn Beitz. The government appeared by Jeff Preston, Assistant United States Attorney. The United States Probation Office ("USPO") appeared by Officer Tasha Taylor, who participated in the proceedings.

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<sup>1</sup> All proceedings were recorded by suitable sound recording equipment unless otherwise noted. *See* 18 U.S.C. § 3401(e).

The court conducted the following procedures in accordance with *Federal Rule of Criminal Procedure* 32.1(a)(1) and 18 U.S.C. § 3583:

1. The court advised Mr. Morefield of his right to remain silent, his right to counsel, and his right to be advised of the charges against him. The court asked Mr. Morefield questions to ensure that he had the ability to understand the proceedings and his rights.

2. A copy of the Petition was provided to Mr. Morefield and his counsel, who informed the court they had reviewed the Petition and that Mr. Morefield understood the violations alleged. Mr. Morefield waived further reading of the Petition.

3. The court advised Mr. Morefield of his right to a preliminary hearing and its purpose in regard to the alleged violations of his supervised release specified in the Petition. Mr. Morefield was advised of the rights he would have at a preliminary hearing. Mr. Morefield stated that he wished to waive his right to a preliminary hearing.

4. Mr. Morefield stipulated that there is a basis in fact to hold him on the specifications of violations of supervised release as set forth in the Petition.

5. The court advised Mr. Morefield of his right to a hearing on the Petition and of his rights in connection with a hearing. The court specifically advised him that at a hearing, he would have the right to present evidence, to cross-examine any witnesses presented by the United States, and to question witnesses against him unless the court determined that the interests of justice did not require a witness to appear.

6. Mr. Morefield, by counsel, stipulated that he committed Violation Numbers 1 and 2 set forth in the Petition as follows:

<b><u>Violation Number</u></b>	<b><u>Nature of Noncompliance</u></b>
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1       **“The defendant shall refrain from unlawful use of a controlled substance.”**

**“You shall not use or possess any controlled substances prohibited by applicable state or federal law, unless authorized to do so by a valid prescription from a licensed medical practitioner. You shall follow the prescription instructions regarding frequency and dosage.**

On August 8, 2018, the offender submitted a urine sample which tested positive for amphetamine. The sample was sent to the Alere Laboratory for subsequent testing, and was confirmed positive for amphetamine and methamphetamine.

2       **“The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16913, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense.”**

Mr. Morefield last reported to the Marion County, Indiana, Sheriff's Department on approximately August 2, 2018, to update the sex offender registry. He has not subsequently reported within 72 hours of any change in residence to update the registry as required per state and federal law.

7.       The court placed Mr. Morefield under oath and directly inquired of Mr. Morefield whether he admitted violations 1 and 2 of his supervised release set forth above. Mr. Morefield admitted the violations as set forth above.

8.       The Government orally moved to dismiss violations 3, 4, 5, and 6 and the Court granted the same.

9.       The parties and the USPO further stipulated that:

- (a)       The highest grade of Violation (Violation 1 & 2) is a Grade B violation (U.S.S.G. § 7B1.1(a)(2)).
- (b)       Mr. Morefield's criminal history category is VI.

- (c) The range of imprisonment applicable upon revocation of Mr. Morefield's supervised release, therefore, is 21 - 24 months' imprisonment. (*See* U.S.S.G. § 7B1.4(a).)

10. The parties jointly recommended a sentence of twenty-four (24) months with no supervised release to follow. Defendant requested placement at USP Marion.

The Court, having heard the admissions of the defendant, the stipulations of the parties, and the arguments and position of each party and the USPO, **NOW FINDS** that the defendant, MICHAEL T. MOREFIELD, violated the above-specified conditions in the Petition and that his supervised release should be and therefore is **REVOKED**, and he is sentenced to the custody of the Attorney General or his designee for a period of twenty-four (24) months with no supervised release to follow. This Magistrate Judge will recommend placement at USPO Marion. The defendant is to be taken into immediate custody pending the district court's action on this Report and Recommendation.

The parties stipulated in open court waiver of the following:

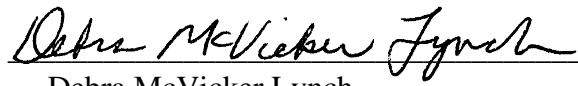
1. Notice of the filing of the Magistrate Judge's Report and Recommendation;
2. Objection to the Report and Recommendation of the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §636(b)(1)(B) and (C); and, Federal Rules of Criminal Procedure 59(b)(2).

The parties entered the above stipulations and waivers after being notified by the undersigned Magistrate Judge that the District Court may refuse to accept the stipulations and waivers and conduct a revocation hearing pursuant to Title 18 U.S.C. §3561 *et seq.* and Rule 32.1 of the Federal Rules of Criminal Procedure and may reconsider the Magistrate Judge's Report and Recommendation, including making a *de novo* determination of any portion of the Report or specified proposed findings or recommendation upon which he may reconsider.

WHEREFORE, the magistrate judge **RECOMMENDS** the court adopt the above recommendation revoking Mr. Morefield's supervised release, imposing a sentence of imprisonment of twenty-four (24) months with no supervised release to follow. The defendant is to be taken into immediate custody pending the district court's action on this Report and Recommendation. The Magistrate Judge will recommend placement at USP Marion.

IT IS SO RECOMMENDED.

Date: 11/9/2018

A handwritten signature in black ink, reading "Debra McVicker Lynch", written over a horizontal line.

Debra McVicker Lynch  
United States Magistrate Judge  
Southern District of Indiana

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